

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20590

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENTS OF THE INTERIOR
AND TRANSPORTATION CONCERNING RESPECTIVE RESPONSIBILITIES UNDER
THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN.

In order to assure the most efficient use of resources under the National Oil and Hazardous Substances Pollution Contingency Plan, the Secretaries of the Departments of the Interior and Transportation agree that the following provisions shall be observed by the agencies of the two Departments in the exercise of their authority and the discharge of their responsibilities under the Contingency Plan.

1. The U.S. Geological Survey has the expertise and capability for coordination and direction in respect to measures to abate the source of pollution when the source is an oil, gas, or sulfur well.
2. The U.S. Coast Guard has the expertise and capability for coordination and direction in respect to measures to contain and remove pollutants.
3. With respect to spills originating from operations conducted under the Outer Continental Shelf Lands Act of 1953, the U.S. Coast Guard shall furnish or provide for the On-Scene Coordinator (OSC) with authority and responsibilities as provided by the National Contingency Plan subject to the following qualifications:
 - a. The authorized representative of the U.S. Geological Survey on the scene shall have the exclusive authority with respect to coordination and direction of measures to abate the source of pollution.
 - b. The authorized representative of the U.S. Geological Survey on the scene shall make the determination, which shall be binding upon the On-Scene Coordinator, that pollution control activities within a 500 meter radius of the source of pollution should be suspended to facilitate measures to abate the source of pollution.
 - c. The authorized representative of the U.S. Geological Survey on the scene shall make the determinations necessary under Section 250.43 of Title 30 of the Code of Federal Regulations, which shall be binding upon the On-Scene Coordinator.
 - d. In regard to those matters arising under Section 1334 et seq. Of Title 43 of the U.S. Code and the regulations and Outer Continental Shelf Orders issued thereunder, the On-Scene Coordinator shall communicate with the lessee through the authorized representative of the U.S. Geological Survey on scene.
 - e. The On-Scene Coordinator and the authorized representative of the U.S. Geological Survey on scene shall maintain close liaison in all matters.
4. With respect to spills originating from operations conducted under the Submerged lands Act of 1953 or in internal waters of the United States, the U.S. Geological Survey, upon request of the U.S. Coast Guard, will furnish expertise, guidance, and such other assistance as may be

appropriate in respect to measures to abate the source of pollution when the source is an oil, gas, or sulfur well.

5. This Memorandum of Understanding shall be reviewed annually and shall continue in force until it shall be amended or terminated by mutual agreement

Done this Sixteenth day of August, 1971, at the City of Washington, D.C.

FOR THE DEPARTMENT OF THE INTERIOR

UNDER SECRETARY OF INTERIOR

FOR THE DEPARTMENT OF TRANSPORTATION

UNDER SECRETARY OF TRANSPORTATION

NOTICES

DEPARTMENT OF TRANSPORTATION

Coast Guard

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND THE DEPARTMENT OF TRANSPORTATION

This memorandum establishes policies and guidelines relating to the definition of transportation and nontransportation related onshore and offshore facilities and the responsibilities of the Environmental Protection Agency and the U.S. Coast Guard with respect to the prevention of oil discharges from vessels and onshore and offshore facilities.

SECTION I—GENERAL

1. Section 11(j) (1) (C) of the Federal Water Pollution Control Act, as amended authorizes the President to issue regulations consistent with maritime safety and with marine and navigation laws establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and onshore and offshore facilities.

2. This authority was delegated by the President in Executive Order 11548. Section 1 of that Executive order delegates responsibility and authority to the Secretary of the Interior to carry out the provisions of subsection (j) (1) (C) of section 11 of the Act after consultation with the Secretary of Transportation relating to procedures, methods and requirements for equipment to prevent discharges of oil from nontransportation related onshore and offshore facilities. The authority delegated to the Secretary of the Interior was subsequently vested in the Administrator of the Environmental Protection Agency in Reorganization Plan No. 3 of 1970 and section 9 of Executive Order 11548.

3. Section 2 of Executive Order 11548 delegates responsibility and authority to the Secretary of Transportation in consultation with the Secretary of the Interior, to carry out the provisions of subsection (j) (1) (C) of section 11 of the Act relating to procedures, methods and requirements for equipment to prevent discharges of oil from vessels and transportation-related onshore and offshore facilities. The Secretary of Transportation in turn redelegated this authority to the Commandant, U.S. Coast Guard.

4. Although Executive Order 11548 divided responsibility and authority into transportation-related and nontransportation-related facilities, no indication of the extent of transportation relation is given. In the broadest sense every facility is transportation related. Any activity that can possibly discharge oil must transport materials to some extent and have materials transported either to, from, or by the facility.

5. In distinguishing between transportation-related and nontransporta-

tion-related facilities, a systems approach was utilized. It is recognized that the life-cycle of oil is characterized by various operations conducted at many different types of facilities. Most facilities necessarily engage in more than one type of operation. These operations include drilling, producing, refining, storing, transferring, transporting, using and disposing. To the extent possible and considering agency resource capabilities and expertise, it is considered most practical to assign one agency the responsibility for regulating a complete operation at any one facility. The Department of Transportation will generally be responsible for regulating the transferring of oil to or from a vessel at any facility including terminal facilities; the transporting of oil via highway, pipeline, railroad, or vessel; and certain storing operations. The Environmental Protection Agency will generally be responsible for regulating drilling, producing, refining, storing, disposing and certain transferring operations at various types of facilities.

6. While the following definitions are intended to be as specific and inclusive as possible, it is recognized that certain problems concerning these definitions will arise from time to time requiring the cooperation and agreement of the Department of Transportation and the Environmental Protection Agency for resolution.

SECTION II—DEFINITIONS

The Environmental Protection Agency and the Department of Transportation agree that for the purposes of Executive Order 11548, the term—

(1) "Non-transportation-related onshore and offshore facilities" means—

(A) Fixed onshore and offshore oil well drilling facilities including all equipment and appurtenances related thereto used in drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(B) Mobile onshore and offshore oil well drilling platforms, barges, trucks, or other mobile facilities including all equipment and appurtenances related thereto when such mobile facilities are fixed in position for the purpose of drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(C) Fixed onshore and offshore oil production structures, platforms, derricks, and rigs including all equipment and appurtenances related thereto, as well as completed wells and wellhead equipment, piping from wellheads to oil separators, oil separators, and storage facilities used in the production of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(D) Mobile onshore and offshore oil production facilities including all equipment and appurtenances related thereto as well as completed wells and wellhead equipment, piping from wellheads to oil separators, oil separators, and storage facilities used in the production of oil when such mobile facilities are fixed in position for the purpose of oil production operations, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(E) Oil refining facilities including all equipment and appurtenances related thereto as well as in-plant processing units, storage units, piping, drainage systems and waste treatment units used in the refining of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(F) Oil storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding in-line or breakout storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(G) Industrial, commercial, agricultural or public facilities which use and store oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(H) Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks, but excluding waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for off-loading vessels.

(I) Loading racks, transfer hoses, loading arms and other equipment which are appurtenant to a nontransportation related facility or terminal facility and which are used to transfer oil in bulk to or from highway vehicles or railroad cars.

(J) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a nontransportation related facility and which are not intended to transport oil in interstate or intrastate commerce.

(K) Pipeline systems which are used for the transport of oil exclusively within the confines of a nontransportation related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce, but excluding pipeline systems used to transfer oil in bulk to or from a vessel.

(2) "Transportation-related onshore and offshore facilities" means—

(A) Onshore and offshore terminal facilities including transfer hoses, loading arms and other equipment and appurtenances used for the purpose of handling or transferring oil in bulk to or

from a vessel as well as storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels, but excluding terminal waste treatment facilities and terminal oil storage facilities.

(B) Transfer hoses, loading arms and other equipment appurtenant to a nontransportation related facility which is used to transfer oil in bulk to or from a vessel.

(C) Interstate and intrastate onshore and offshore pipeline systems including pumps and appurtenances related thereto as well as in-line or breakout storage tanks needed for the continuous operation of a pipeline system, and pipelines from onshore and offshore oil production facilities, but excluding onshore and offshore piping from wellheads to oil separators and pipelines which are used for the transport of oil exclusively within the confines of a nontransportation related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce or to transfer oil in bulk to or from a vessel.

(D) Highway vehicles and railroad cars which are used for the transport of oil in interstate or intrastate commerce and the equipment and appurtenances related thereto, and equipment used for the fueling of locomotive units, as well as the rights-of-way on which they operate. Excluded are highway vehicles and railroad cars and motive power used exclusively within the confines of a nontransportation related facility or terminal facility and which are not intended for use in interstate or intrastate commerce.

SECTION III—COORDINATION AND ENFORCEMENT

The above definitions have been developed to facilitate the development and enforcement of regulations for prevention of oil discharges and to correspond as much as possible to the existing responsibilities of the Department of Transportation and the Environmental Protection Agency. It is recognized, however, that in some situations the Department of Transportation may have expertise that could be helpful to the Environmental Protection Agency in the development or enforcement of these regulations and vice versa. Such a situation might arise in connection with the regulation of the nontransportation related facilities included within definitions 1 (J) and (K) in section II above.

It is agreed that in such situations the Department of Transportation and the Environmental Protection Agency will provide assistance to and coordinate with each other in the development and enforcement of the regulations to the extent that existing resources permit.

Done this 24th day of November 1971 at the city of Washington.

For the Department of Transportation.

JOHN A. VOLPE.

For the Environmental Protection Agency.

WILLIAM D. RUCKELSHAUS.

[FR Doc.71-13542 Filed 12-17-71; 3:43 am]